



Docket No.: M4065.0165/P165
(PATENT)

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8/5/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Garry A. Mercaldi, et al.

Application No.: 09/285,773

Group Art Unit: 1765

Filed: April 5, 1999

Examiner: L. Umez-Eronini

For: METHOD FOR ETCHING DOPED
POLYSILICON WITH HIGH
SELECTIVITY TO UNDOPE
POLYSILICON

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TC 1700

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the election/restriction requirement set forth in the Office Action mailed July 16, 2002 (Paper No. 26), Applicants provisionally elect Group D (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41, 83, and 89-93) for continued examination.

The election is made with traverse.

First, the present application was given a restriction requirement more than two years ago, in an Office Action mailed May 1, 2000, which required election between claims 1-41, drawn to a product, and claim 42-81, drawn to a method. In a response to the first restriction requirement dated May 25, 2000, Applicants provisionally elected claims 1-41, for continued examination without traverse. All elected claims 1-41 were then examined on the merits and a substantive Office Action was mailed on June 7, 2000, rejecting all claims 1-41. Applicants responded to the June 7, 2000 Office Action and amended claim 1, canceled claims 8, 12 and 19-21, and added new claims 82-86 in an Amendment dated

August 10, 2000. The Examiner then issued a second substantive Office Action pertaining to claims 1-7, 9-11, 13-18, 22-41 and 82-86 on October 31, 2000 and Applicants responded on January 23, 2001 and amended claims 1, 4, 25 and 82-86.

A Notice of Appeal was mailed on February 1, 2001 and Applicants filed a Continued Prosecution Application on February 23, 2001. A fourth substantive Office Action was mailed on March 7, 2001 rejecting claims 1-7, 9-11, 13-18, 22-41 and 82-86 and Applicants responded on May 23, 2001 and canceled claims 30-32, 36-38 and 84-86, amended claims 1, 22 and 82-83 and added new claims 87-93. A fifth substantive Office Action was then mailed on July 24, 2001 finally rejecting claims 1-7, 9-11, 13-18, 22-29, 33-35, 39-41, 82 and 83 and allowing claims 87-93. In response to the July 24, 2001 Office Action, Applicants canceled claims 10, 11, 16-18 and 87, and amended claims 1 and 9 in an Amendment dated October 18, 2001. Another Advisory Action was mailed on October 30, 2001 and Applicants responded by filing another Continued Prosecution Application (CPA) on November 26, 2001. A seventh substantive Office Action was issued on December 13, 2001 rejecting all pending claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88. Applicants responded in an Amendment dated March 11, 2002 and amended claims 1, 9 and 22 and canceled claim 88.

Now, after more than two years of substantive prosecution of elected claims 1-41, Applicants have been required unexpectedly and unfairly to further elect between Group A (claims 1, 9, 22 and 89-93), Group B (claims 1, 22, 82, 83 and 89-93), Group C (claims 1, 2, 6, 7, 9, 13-15, 22-27, 33-35, 83 and 89-93) and Group D (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41, 83 and 89-93).

Second, MPEP § 803 provides that “[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on its merits, even though it includes claims to independent or distinct inventions.” As acknowledged by virtue of Applicants receiving numerous Office Actions mailed over a period of more than two years, claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88 all relate

to a non-aqueous etching mixtures, thereby defining closely related subject matter. Further, the previously elected claims have already been substantively examined at least five times by the same Examiner. Accordingly, this demonstrates that the entire group of claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88 can be examined together without serious burden. Consequently, the restriction requirement should be withdrawn and all claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88 should be examined.

Dated: July 31, 2002

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

Gabriela I. Coman

Registration No.: 50,515

DICKSTEIN SHAPIRO MORIN &

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicants